

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>MARILYN MARIE SMITH,</b>	:	<b>CIVIL ACTION NO. 1:18-CV-24</b>
	:	
<b>Plaintiff</b>	:	<b>(Chief Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>COUNCIL 13 AFSCME,</b>	:	
	:	
<b>Defendant</b>	:	

**ORDER**

AND NOW, this 3rd day of July, 2018, upon consideration of the report (Doc. 25) of Magistrate Judge Joseph F. Saporito, Jr., issued following review of the amended complaint (Doc. 14) of *pro se* plaintiff Marilyn Marie Smith (“Smith”), wherein Judge Saporito recommends that the court dismiss the above-captioned case for Smith’s failure to cure deficiencies concerning Smith’s failure to exhaust administrative remedies identified in Judge Saporito’s prior report (Docs. 10, 13), and the court noting that Smith filed an objection (Doc. 26) to the report, and following *de novo* review of the contested portions of the report, see Behar v. Pa. Dep’t of Transp., 791 F. Supp. 2d 383, 389 (M.D. Pa. 2011) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n.3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(C)), and applying a clear error standard of review to the uncontested portions, see Cruz v. Chater, 990 F. Supp. 375, 376-78 (M.D. Pa. 1999), the court being in full agreement with Judge Saporito’s rationale, and finding same to be thorough, well-reasoned, and fully

supported by the record, and finding Smith's objection to be without merit, it is hereby ORDERED that:

1. The report (Doc. 25) of Magistrate Judge Saporito is ADOPTED.
2. Smith's amended complaint (Doc. 14) is DISMISSED with prejudice.
3. The Clerk of Court is directed to CLOSE this case.
4. Any appeal from this order is deemed to be frivolous and not taken in good faith. See 28 U.S.C. § 1915(a)(3).

/S/ CHRISTOPHER C. CONNER  
Christopher C. Conner, Chief Judge  
United States District Court  
Middle District of Pennsylvania